

CIRCUIT COURT FOR HAMILTON COUNTY
State of Tennessee

FILED IN OFFICE

2019 OCT 17 PM 12:17

C.P.S., (a minor child), through
parent and next friend
Angel Cherie Johnson,

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

Plaintiff,

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

§

~v~

No. 19C1161

LARRY L. HENRY, CLERK

BY

CC

JURY DEMAND

HAMILTON COUNTY
GOVERNMENT,

DEPUTY DANIEL WILKEY,
In his capacity as a deputy sheriff
for Hamilton County Government and
in his individual capacity,

DEPUTY JACOB GOFORTH,
In his capacity as a deputy sheriff
for Hamilton County Government and
in his individual capacity,

Defendants.

COMPLAINT

PLAINTIFF, for her causes of action, will show the Court:

Introduction:

1. This is an action for money damages brought pursuant to 42 U.S.C. §§ 1983 and 1988 to redress the deprivation of rights secured to Plaintiff by the Fourth, and Fourteenth Amendments to the United States Constitution and for violations of the laws of the State of Tennessee by the Defendants.

2. Plaintiff further brings this action against the Defendant, Hamilton County Government (“County”) pursuant to TENN. CODE ANN. § 8-8-302.

3. Plaintiff, a 14-year-old minor child at the time of the events averred herein brings this matter through her custodial mother, Angel Cherie Johnson (“mother”) as mother and next friend.

4. Plaintiff avers that the individually named defendant, Deputy Daniel Wilkey (“Wilkey”), acted as a deputy sheriff, agent, and law enforcement officer employed by the County and was at all times relevant to this matter acting under color of law and under color of his office with the County.

5. Plaintiff avers that the individually named defendant, Deputy Jacob Goforth (“Goforth”), acted as a deputy sheriff, agent, and law enforcement officer employed by the County and was at all times relevant to this matter acting under color of law and under color of his office with the County.

6. Plaintiff maintains that the individual Defendants committed these violations, further set forth herein, as a result of policies, customs, practices, and/or procedures of the County.

7. In addition, Plaintiff avers that individual Defendants’ acts and omissions subjected Plaintiff to mental anguish, humiliation, and emotional distress.

Jurisdiction and Venue:

8. This is an action to redress the deprivation of rights secured to Plaintiff by the Fourth, and Fourteenth Amendments to the United States Constitution and for violations of Tennessee common law. Thus, as to the § 1983 claims, this Court is vested with original jurisdiction pursuant to the authority stated in Haywood v. Drown, 556 U.S. 729 (2009) and Poling v. Goins, 713 S.W.2d 305, 306 (Tenn. 1986). This Court is vested with original jurisdiction over Plaintiff’s state claims pursuant to TENN. CODE ANN. § 16-10-101, et seq.

9. Venue is proper in this Court pursuant to TENN. CODE ANN. § 20-4-102. All acts complained of occurred within Hamilton County.

- a. Plaintiff and mother are residents of Hamilton County, Tennessee.
- b. To the best of Plaintiff's knowledge, the individual Defendants are residents of Hamilton County, Tennessee, or in the alternative, perform their livelihood as employees of the County within Hamilton County, Tennessee.
- c. The County is a political sub-division of the State of Tennessee.

The Parties:

10. At all times relevant to this cause of action, Plaintiff was a citizen of the United States and a resident and a citizen of the State of Tennessee.

11. At all times relevant to this cause of action, the County was a political subdivision of the State of Tennessee organized and existing under the laws of the State of Tennessee.

- a. The County finances its law enforcement department identified and averred as the Hamilton County Sheriff's Department ("sheriff's department") and provides rules and regulations for the operation of the sheriff's department.
- b. The County provides oversight of the hiring, training, discipline, and retention of all personnel in its law enforcement department.

12. At all times relevant to this cause of action, the County is responsible for the creation and maintenance of its sheriff's department, which is a law enforcement agency created under Tennessee state law and regulated by the laws of the State of Tennessee as to:

- a. The safe and humane treatment of all persons taken into and held in the custody of its sheriff's deputies and to not treat such person with unnecessary rigor.
- b. The training and certification of its law enforcement employees.
- c. The safety of persons detained or otherwise within the custody of its individual deputies¹ and agents.
- d. To properly and promptly investigate claims of misconduct by its officers and to ensure that officers who pose a risk of harm to the Plaintiff in particular and the public as a whole are not performing law enforcement duties.

13. Plaintiff brings this action against the County.

14. At all times relevant to this cause of action, the County employed the individual Defendants who in turn were appointed by the sheriff as sheriff's deputies. The individual Defendants acted under the color of their office and under the color of law, statute, ordinance, regulation, custom, or usage of the County. In addition:

- a. At all times relevant to this cause of action, the individual Defendants acted in their official capacities as employees for the County as defined under TENN. CODE ANN. § 29-20-102.
- b. At all times relevant to this cause of action, the individual Defendants acted by virtue of or under the color of their offices as a deputy sheriff pursuant to TENN. CODE ANN. § 8-8-302.

¹ Hereinbefore and after the terms, "officers" and "deputies" are used interchangeably to refer to all of the County's law enforcement and correctional employees.

- c. At all times relevant to this cause of action, the individual Defendants used the authority of their respective offices to assist one another, and thus acted as equals.
- d. Plaintiff sues the individual Defendants in their individual capacities.

Factual Basis:

Individual Defendants:

- 15. On or about April 21, 2019, Plaintiff was one of six minors occupying a motor vehicle driven by another minor identified as A.M.
- 16. The vehicle A.M. operated had factory installed windows, and were not tinted in any manner to violate Tennessee law.
- 17. The weather was cold, and there was a torrential rainfall.
- 18. Wilkey followed the minors for miles before he conducted a traffic stop of the vehicle on the false claim that the vehicle's window tint violated Tennessee state law.
- 19. Goforth arrived at about the same time.
- 20. As Wilkey and Goforth approached the vehicle, Wilkey made a comment to the occupants that he "smelled weed."
- 21. At no time did anyone in the vehicle smoke any marijuana before the traffic stop.
- 22. Without any lawful justification, Wilkey, with Goforth by him, ordered the minor occupants from the vehicle.
- 23. The minors, including Plaintiff, exited the vehicle, and Wilkey and Goforth directed the minors to remain standing in the torrential and cold rain.

24. Without any lawful justification, Wilkey then ordered the minors to take their cell phones and place the phones inside the vehicle while the minors remained outside in the cold rain. The minors complied.

25. As Goforth stood by and watched, Wilkey began a series of comments to the minors about religion and that he was “praying” for them.

26. Interspersed in his comments about God, Jesus and religion were Wilkey’s insults, foul language, and comments about how the minors will end up like their “piece of s#*t parents” and become “disappointments.”

27. Plaintiff and one or two of the other minors asked Goforth and Wilkey if they could call their parents.

28. Wilkey replied that the “law” did not allow the minors to call their parents until and only after he took them to the juvenile detention center.

29. Wilkey approached the only male minor, identified as P.S., and with Goforth watching, ordered P.S. to strip off his clothes.

30. While in the cold and torrential rain, P.S. complied with the command, and removed his pants and was down to his boxer shorts.

31. Goforth ordered P.S. to remove his boxers, and P.S. told Wilkey and Goforth that there were girls present and that the only way he would take off his boxers would be for the deputies to take P.S. to the juvenile detention center.

32. Wilkey turned his attention to the female minors.

33. Wilkey ordered Plaintiff to place her hands on the vehicle, and stick out her buttocks.

34. Wilkey then conducted a slow "search" of the Plaintiff with his hands over her breasts, abdomen, buttocks, inner thighs, and into her crotch.

35. Wilkey pressed and squeezed Plaintiff with his hand has he groped Plaintiff's breasts, abdomen, buttocks, inner thighs, and crotch.

36. Wilkey then, with both hands reached underneath Plaintiff's bra (though Plaintiff's shirt) and felt the Plaintiff's breasts as he pulled her bra outward and gave the bra a shake.

37. While "searching" Plaintiff, Wilkey told Plaintiff to "bend over a little more."

38. Wilkey searched the other minor females in the same manner, and told them to also bend over more as he groped them.

39. During these "searches," Wilkey spoke to Goforth in a very casual and conversational manner.

40. At no time did Goforth intervene and prevent Wilkey from groping the Plaintiff or the other female minors.

41. The "search" and detention lasted nearly two hours, during which time Goforth and Wilkey refused to allow the minors to get back into the vehicle and out of the cold rain.

42. At no time during the "search" did Goforth or Wilkey allow the minors to call their parents.

43. Wilkey reached into A.M.'s panties and recovered what Plaintiff believes was contraband, whereupon Goforth took A.M. into custody and transported her to the juvenile detention center.

44. Wilkey stayed behind, and allowed the remaining minors, including Plaintiff, to retrieve their phones and call their parents.

45. Tenn. Code Ann. § 37-1-115 required Goforth and Wilkey, upon taking the minors into custody, to release the minors within a reasonable time into the custody of their parents or guardians to the court unless other grounds existed under Tenn. Code Ann. § 37-1-114.

46. No lawful grounds existed that allowed the individual Defendants to detain the Plaintiff and the other minors for nearly two hours in the cold rain, force them to place their cell phones in the car, strip search the male minor, and to grope the female minors.

County:

The mother's attempts to file a complaint

47. Plaintiff's mother picked up the Plaintiff from the side of the road, and upon learning from Plaintiff that the individual Defendants groped her, the mother contacted someone at the sheriff's department annex in Red Bank, TN to file a complaint.

48. The mother spoke with a man who supposedly took her contact information and told the mother that someone from internal affairs would contact her.

49. As of this date, and despite two more attempts by the mother to file a complaint with the sheriff's department or to learn why no one has contacted her, no one from the sheriff's department has contacted the mother to obtain a statement from the Plaintiff.

Rodney Terrell

50. The County failed to suspend or terminate county corrections officer Rodney Terrell ("Terrell") after Terrell unlawfully used a Taser on Nancy Mason ("Mason") while in the custody of the Sheriff in March 2015.

51. In an effort to cover-up his unreasonable use of force on Mason, Terrell wrote a use of force report wherein he falsely claimed a justified use of the Taser on Mason, which 3 of

Terrell's supervisors holding the ranks of Lieutenant, Captain, and Administration approved and endorsed as Terrell having "followed Policy/Training."

52. However, the County then reopened the investigation as to Terrell's use of force on Mason, and merely reprimanded Terrell.

53. Despite a finding by the Sheriff's own Internal Affairs investigation that Terrell used excessive force on Mason and that the force caused Mason to suffer a serious fractured arm, the Sheriff merely stated the following in regard to the incident:

"Policy needs review & better clarification made. It appears the employees involved had no malicious intent, but training & policies need to be addressed with each employee involved."

54. Despite a finding by the Sheriff's own Internal Affairs investigation that Terrell used excessive force on Mason and that the force caused Mason to suffer a serious fractured arm, the County did not suspend or terminate Terrell. Rather, sometime later, the County actually promoted Terrell to the rank of Lieutenant.

Daniel Hendrix

55. On August 15, 2015, the late Deputy Daniel Hendrix ("Hendrix") savagely assaulted a fully handcuffed and shackled prisoner identified as Leslie Hayes ("Hayes") at the Silverdale Complex.

56. This assault was captured in its entirety on video.

57. Hendrix then lied to Sheriff's Department investigators about his assault upon Hayes and lied when he brought false felony criminal charges against Hayes, which were later dismissed.

58. Although criminal charges were brought against Hendrix, they were eventually dropped based upon a false claim that County authorities did not know the whereabouts of Hayes

to prosecute Hendrix despite the fact the County knew Hayes was held in the Sequatchie County Jail. County authorities could have easily transported Hayes to Hamilton County to allow her to testify against Hendrix but refused or failed to do so.

59. Subsequent to the state's dismissal of the criminal charges against him, the county returned Hendrix to his full duties as a Deputy.

60. On March 29, 2017, Hendrix was shot and killed by law enforcement after Hendrix became violent with two female Chattanooga Police officers while celebrating Hendrix's birthday.

61. Upon Chattanooga Police law enforcement's arrival, Hendrix drew his County issued gun, became agitated and refused commands to drop the weapon, whereupon law enforcement shot and killed Hendrix.

62. Despite the full knowledge of Hendrix's propensity to use extreme violence against citizens in general, the County allowed Hendrix to return to full duty with the full use and benefit of his county issued gun.

Edmond Blake Kilpatrick

63. Edmond Blake Kilpatrick ("Kilpatrick") was hired by the County sometime in 2009 as a deputy sheriff. At the present time, he is a detective with the sheriff's department.

64. Prior to his employment by the County, Kilpatrick was a defendant in an Order of Protection petition filed by Sylvana Johnson ("Johnson") in Meigs County, Tennessee under case number OP370. This Petition was at the time the County employed Kilpatrick, a public record and readily available to anyone.

65. In the petition, Johnson claimed that Kilpatrick forced his way into her residence, attacked a person she named "Matt," as well as herself.

66. Forced entry into a residence to commit a crime therein constitutes the state felony of aggravated burglary.

67. Kilpatrick stands accused of killing Christopher Sexton in U.S. District Court Case No. 1:18-cv-17.

68. Kilpatrick also stands accused of beating Charles Toney, Jr. (“Toney”), which was recorded by a bystander.

69. In this recording, while handcuffed and on the ground, Kilpatrick is beating and pummeling Toney without any lawful and believable justification.

70. This video recorded beating happened on December 3, 2018.

71. The recording was “viral” on “YouTube,” and was the focus of much media exposure to the command staff of the County’s sheriff’s department.

72. It was not until on or about December 19, 2018, that the County, through its sheriff’s department, placed Kilpatrick on suspension (with pay) pending further investigations by federal authorities.

73. Although the office of the District Attorney General for Hamilton County referred the Kilpatrick matter to federal authorities some days prior to December 19, 2018, the suspension happened almost immediately after much pressure from two Hamilton County Commissioners, the local chapter of the NAACP, and local grass-roots protests.

Sheriff Jim Hammond

74. The sheriff of the County is Jim Hammond (“Hammond”).

75. In 2012, when addressing civic leaders about black gang members Hammond said the following: “We need to run them out of town, put them in jail or send them to the funeral home.”

76. In response to the conduct of Kilpatrick, and in response to a video recorded beating, strip search, and anal cavity search of a handcuffed James Mitchell (that happened on July 10, 2019) by Wilkey and Deputy Bobby Brewer, Hammond stated he stood by his deputies, that the same deputies were “seasoned” officers, “good” officers, and that he stood by their “ability and training.”

77. Despite Wilkey’s questionable killing of an unarmed man by gunshot to the head while Wilkey worked for the Rhea County Sheriff, Hammond approved the hire of Wilkey as a deputy for the County.

78. Consequently, by setting the example through Terrell, Hendrix, Kilpatrick, and Hammond, the County created an environment that allowed the individual Defendants to believe that abusive behavior would not be properly monitored, investigated, nor punished and was tantamount to a policy of the County. This failure constitutes deliberate indifference by the County and was the direct and proximate cause of Plaintiff’s damages, and suffering and mental and physical injuries.

Count One:
**Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Failure to Protect and Render Aid**

79. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

80. Both individual Defendants had non-delegable duties to intervene and prevent his fellow defendant from fondling and groping the minor Plaintiff. No reasonable law enforcement officer would have acted in this manner.

81. The individual Defendants had non-delegable duties to report the misconduct of their fellow defendants to the command staff of the County’s sheriff’s department.

82. Once the Plaintiff was in the joint custody of the individual Defendants there existed a special relationship between the Plaintiff and all Defendants.

83. Once Plaintiff was in the custody of the individual Defendants, they had an affirmative duty to protect Plaintiff from molestation from one another and to report the misconduct of their fellow co-defendants to those charged with the oversight of officer conduct.

84. The County had a non-delegable duty to ensure that it properly trained officers to intervene when fellow officers acted as Wilkey and Goforth did in this matter.

85. The failure of the individual Defendants to intervene and stop the other in his actions as set forth herein and their failure to report the misconduct of their fellow officers constituted a joint effort in which they participated as equals.

86. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual defendants, could act in a similar manner, and thus not be punished in any significant way.

87. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the individual defendants, could act in a similar manner, and thus not be punished in any significant way.

88. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that

other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

89. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

90. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

91. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of the individual Defendants against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

92. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slip-shod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

93. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

94. The failure of the County to pursue the mother's complaint was evidence that the County would not properly supervise and investigate claims of misconduct against its deputies and constituted a policy of the County.

95. The individual defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived the Plaintiff of her rights secured to her under the Fourteenth Amendment to United States Constitution to be free from injury and/or harm while in the custody of the individual Defendants and the County.

96. Plaintiff sues the County and the individual Defendants in their official and individual capacities under this Count.

Count Two:
**Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Unreasonable Seizure**

97. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

98. The individual Defendants had a non-delegable duty to refrain from seizing Plaintiff without probable cause.

99. Wilkey had no lawful basis to grope and sexually molest the Plaintiff. No reasonable law enforcement officer would have acted in this manner.

100. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

101. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the

individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

102. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

103. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

104. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

105. The failure of the County to pursue the mother's complaint was evidence that the County would not properly supervise and investigate claims of misconduct against its deputies and constituted a policy of the County.

106. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of the individual Defendants against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

107. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slip-shod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

108. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

109. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived the Plaintiff of her rights secured to her under the Fourth Amendment to United States Constitution to be free from unreasonable seizures.

110. Plaintiff sues the County and the individual Defendants in their official and individual capacities under this Count.

Count Three:
**Violation of Civil Rights Under
Color of Law 42 U.S.C. §1983 –
Unreasonable Search**

111. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

112. Wilkey had a non-delegable duty to refrain from searching the Plaintiff without probable cause by touching her genitals in such a manner as to constitutes a criminal sexual battery. No reasonable law enforcement officer would have acted in this manner.

113. Wilkey had no lawful basis to fondle and grope the Plaintiff. Goforth had no lawful basis to participate as an equal with Wilkey by merely standing by and watching as Wilkey fondled and groped the Plaintiff.

114. The County's continued employment of Terrell and Hendrix and the County's failure to discipline Terrell and Hendrix in any meaningful manner, created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

115. The County's promotion of Terrell to lieutenant after his unnecessary use of force against Nancy Mason created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

116. The County's employment of Kilpatrick despite his history of violence against women during the commission of at least one felony, the continued display of violence in the unnecessary killing of Christopher Sexton, the promotion of Kilpatrick to a detective position, and the delay suspension of Kilpatrick despite overwhelming video evidence of Kilpatrick's propensity to use violence against a helpless and handcuffed arrestee created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

117. The County's employment of Wilkey despite his history of violence against an unarmed person created an atmosphere that other County employees, including the individual Defendants, could act in a similar manner, and thus not be punished in any significant way.

118. The failure of the County to pursue the mother's complaint was evidence that the County would not properly supervise and investigate claims of misconduct against its deputies and constituted a policy of the County.

119. Hammond's comments created an atmosphere that other County employees, including the individual Defendants, could act as they have in this instance, and thus not be punished in any significant way.

120. The failures of the County set forth in previous paragraphs constituted deliberate indifference on the part of the County, created an environment that allowed the misconduct of the individual Defendants against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

121. The County hired Kilpatrick despite Kilpatrick's 2006 history of extreme violence. The County's employment of Kilpatrick was either with the full knowledge of the Meigs County incident, and thus condoned by the County, or was a product of a slip-shod vetting process before hiring Kilpatrick. Either way, the County's employment of Kilpatrick constituted a message to other County employees, including the individual Defendants, that no matter your conduct, you can become employed with the County as a deputy sheriff.

122. The failures of the County in regard to Kilpatrick's employment created an environment that allowed the misconduct of the individual Defendants against the Plaintiff, constituted a policy of the County, and was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

123. The individual Defendants acted under color of law and their negligence and intentional acts along with the deliberate indifference of the County deprived the Plaintiff of her

rights secured to her under the Fourth Amendment to United States Constitution to be free from unreasonable searches.

124. Plaintiff sues the County and the individual Defendants in their official and individual capacities under this Count.

Count Four:
Negligence

125. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

126. As stated previously, the individual Defendants, at the time of the events averred in this Complaint, acted under the color of their offices as deputy sheriffs for the County.

127. TENN. CODE ANN. § 8-8-302, allows anyone incurring any wrong, injury, loss, damage or expense resulting from any act or failure to act on the part of any deputy appointed by the sheriff to bring suit against the County.

128. The Tennessee Constitution, article 1, section 13, prohibits the treatment of Plaintiff upon arrest and confinement with unnecessary rigor. Consequently, the individual Defendants had an affirmative and non-delegable duty to not treat the Plaintiff in the manner averred in this Complaint.

129. The individual Defendants' failures to protect Plaintiff from one another, to not grope and fondle the Plaintiff, to not seize Plaintiff without probable cause, and to not search Plaintiff in the manner described herein, were the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

130. The County, as stated in this Complaint, had an affirmative duty to properly supervise, discipline, and train its deputies to not use act as averred herein, to report fellow

deputy misconduct, and to not hire persons as deputies with easily discoverable histories of violence.

131. The failures of the County were the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

132. Plaintiff sues the County and the individual Defendants in their individual and official capacities under this Count.

Count Five:
Battery – Both Individual Defendants

133. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

134. The individual Defendants' concerted acts and omissions as averred in this Complaint were not based on any lawful execution of their duties as law enforcement officers. Rather, the individual defendants acted in concert to inflict physical and mental harm upon Plaintiff.

135. The individual Defendants' conduct was the direct and proximate cause of Plaintiff's mental anguish, needless suffering, and loss of enjoyment of life.

136. Plaintiff sues the individual Defendants in their individual capacities under this Count.

Count Six:
Assault – Both Individual Defendants

137. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

138. The individual Defendants' acts and omissions as averred in this Complaint were not based on any lawful execution of their duties as law enforcement officers. Rather, the individual Defendants acted in concert to inflict physical harm upon Plaintiff.

139. The individual Defendants' conduct was the direct and proximate cause of Plaintiff's mental anguish and mental, needless suffering, and loss of enjoyment of life.

158. Plaintiff sues the individual Defendants in their individual capacities under this Count.

Count Seven:
**Intentional Infliction
of Emotional Distress –
Both Individual Defendants**

159. Plaintiff incorporates all the prior averments in the previous paragraphs as if fully set forth herein.

160. At the time of the events averred in this Complaint, a special relationship existed between the individual Defendants and Plaintiff.

161. Despite their full knowledge of the pain and harm their actions caused Plaintiff during their physical encounter with the Plaintiff, the individual Defendants continued in their actions.

162. No reasonable deputy would have acted in this manner toward the Plaintiff.

163. As a direct and proximate cause of the individual Defendants' conduct, Plaintiff has suffered mental injury.

169. Plaintiff sues the individual Defendants in their individual capacities under this Count.

WHEREFORE, the Plaintiff demands judgment against the Defendants both joint and several and requests the following relief:

A. The omissions of the County constituted willful and wanton indifference to and with deliberate disregard for the constitutional civil rights of the Plaintiff. Thus, the Plaintiff is entitled to actual damages, and attorney fees pursuant to 42 U.S.C. §1988.

B. The individual defendants committed their acts against Plaintiff with actual malice toward the Plaintiff and with willful and wanton indifference to and with deliberate disregard for the constitutional civil rights of the Plaintiff. Thus, Plaintiff is entitled to punitive damages, actual damages, and attorney fees pursuant to 42. U.S.C. §1988.

C. The Court to enter judgment against the Defendants and to award Plaintiff compensatory damages in the amount of ONE MILLION DOLLARS (\$1,000,000).

D. The Court to enter judgment against the individual Defendants and to award Plaintiff punitive damages in the amount of TEN MILLION DOLLARS (\$10,000,000).

E. That the Court award costs, and discretionary costs.

F. Any other relief the Court may deem fit and proper.

G. Any other relief the Court may deem fit and proper pursuant to 42 U.S.C. § 1988, and

H. Allow a jury trial on all issues.

Respectfully submitted,

By:


ROBIN RUBEN FLORES

TENN. BPR #20751

GA. STATE BAR #200745

Attorney for Plaintiff

4110-A Brainerd Road

Chattanooga, TN 37411

(423) 267-1575

robin@robinfloreslaw.com